IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 10694 of 2007(S)

PETITIONER:
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1. DIRECTOR GENERAL,INDIAN COUNCIL OF AGRICULTURAL RESEARCH,KRISHI BHAVAN,NEW DELHI 110 001.

2. THE DIRECTOR, CENTRAL INSTITUTE OF FISHERIES TECHNOLOGY,MATSYAPURAI P.O,WELLINGDON ISLANDS,COCHIN- 682 029.

BY ADV. SRI.P.JACOB VARGHESE, SC, ICAR

RESPONDENTS:
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1. CENTRAL INSTITUTE OF FISHERIES TECHNOLOGY EMPLOYEES FEDERATION, REPRESENTED BY ITS SECRETARY, CENTRAL INSTITUTE OF FISHERIES TECHNOLOGY, MATSYAPURI P.O, WELLINGDON ISLANDS, COCHIN-682 029.

2. SRI.P.S.NOBI, AGED 42 YEARS, S/O.SUKUMARAN NET MAKING SUPERVISOR,CIFT, MATSYAPURI P.O, COCHIN,RESIDING AT PAMPALAMARI HOUSE, NOCHIMA, N.A.D., ALWAYE 683 563.

3. SRI.N.KRISHNAN,AGED 48 YEARS,S/O.LATE NARAYANAN,JUNIOR LABORATORY ASSISTANT,CIFT, MATSYAPURAI,RESIDING AT MATTASSERI KUDI HOUSE, AIRAPURAM P.O.

4. UNION OF INDIA,REPRESENTED BY SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE,NIRMAN BHAVAN,NEW DELHI- 110 001.

BY SHRI JOHN VARGHESE, ADDL. SOLICITOR GENERAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) No.10694 of 2007 S

Dated this the 2nd day of April, 2007

Judgment

Koshy, J.

Petitioner is challenging the order of the Central Administrative Tribunal allowing a claim of medical reimbursement put forward by respondent Nos.2 and 3. Respondents who were employees of Central Institute of Fisheries Technology (CIFT) at Cochin, a unit of Indian Council of Agricultural Research (ICAR) were given medical advance of Rs.10,000/- each. The wife and son of the second respondent were treated at Indira Gandhi Co-operative Hospital, a hospital run by the Co-operative Department of Kerala State. He claimed an amount of Rs.10,218/- and after adjustment from advance, final claim was only Rs.218/-. The claim was accepted only for Rs.5,795/- as admissible under the Rules. The balance Rs.4,205/- was ordered to be recovered from his salary. Third respondent submitted a bill for Rs.13,745.67 for the treatment of his wife. After processing the claim

was admitted only for Rs.7,112/-. The balance amount of Rs.2,888/- was directed to be reimbursed. One instalment was recovered from his salary. By Ext.P4 order of the tribunal, it was held that entire claim of the respondents ought to have been allowed by the department.

2. It is not disputed that employees of CIFT are entitled to get free medical treatment under the Central Civil Services (Medical Attendance) Rules. Rules 3 and 6 of the CCS (MA) Rules are as follows:

> "3 (1) A Government servant shall be entitled, free of charge, to Medical attendance by the authorised Medical Attendant.
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> (2) Where a Government servant is entitled under sub-rule (1) free of charge, to receive Medical Attendance, any amounts paid by him on account of such Medical Attendance shall, on production of a certificate in writing by the authorised medical attendant in this behalf be reimbursed to him by the Central Government.
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> Provided that the controlling officer shall reject any claim if he is not satisfied with the genuineness on facts and circumstances of each case, after giving an opportunity to the claimant of being heard

in the matter. While doing so, the controlling officer shall communicate to the claimant the reasons, in brief, for rejecting the claim and the claimant may submit an appeal to the Central Government within a period of 45 days of the date of the receipt of the order rejecting the claim.

6 (1) A Government servant shall be entitled free of charge, to treatment:-

(a) in such Government Hospital at or near the place where he falls ill as can in the opinion of the authorised medical attendant provide the necessary and the suitable treatment; or

(b) if there is no such hospital as is referred to sub-clause (a) in such hospital other than a government hospital at or near the place as can in the opinion of the authorised medical attendant, provide the necessary and suitable treatment.

(2) Where Government servant is entitled under sub-rule (1) free of charge, to treatment in hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorised medical attendant in his behalf, be reimbursed to him by the Central Government."

Admittedly, there is no Central Government authorised medical attendant at Cochin. By Notification OM No.14021/4/88-MS dated 31.8.1989, Indira Gandhi Co-operative Hospital, Cochin was included as a recognised hospital under rule 2 (d) of CCS (MA) Rules, 1944 for the treatment of Central Government employees and their family members. The schedule of charges of the hospital in force and approved for the purpose at that time was also attached. The bills obtained from the recognised hospitals for the medical treatment of the employees of the Institutes/Centre are to be entertained for payment at the rate of State Government. Since the rates charged at the six recognised hospitals are not reimbursed in full, but, only at Government rate which are very low, hardships are being experienced by the employees in this regard. The schedule of the rates of the recognized private hospitals are fixed by the Government of India, Ministry of Health and Family Welfare on the basis of the agreement between Government and the respective Hospitals. The schedule rate/charges at Indira Gandhi Co-operative Hospital, Cochin was approved by the Ministry of Health on 19.9.1989 for re-imbursement purposes in respect of availing medical treatment for the

employees of CIFT and their family member. Even though the rates charged for medical treatment were revised on three occasions, a revised agreement with Indira Gandhi Hospital was not entered. Therefore, according to the petitioner, even though rates for medical treatment were revised in 2001, they will get reimbursement only at the non-revised rates fixed 12 years ago, that is, in 1989, as in spite of several correspondence, Indira Gandhi Hospital did not respond and their rates were not revised like the rates fixed in other hospitals all over India. The applicants pointed out before the tribunal that the employees of the CMFRI, Cochin, one of the Institute of ICAR, are getting the medical expenses reimbursed in full at the rate revised as treatment expenses. The same benefit has to be extended to the employees and the wards of the employees of the CIFT. The controlling officer of CIFT had forwarded recommendatory letter to the petitioner seeking to extend the same benefits to the employees of the CIFT. It was further submitted that the Lakshmi Hospital has issued revised schedules of rates for reimbursement under the CCS (MA) Rules which was approved b the Government of India by proceeding No.14021/1/95 dated 24.4.2000. Same rates were approved

for other six hospitals in Cochin and claims put forward by the second and third respondents were within the rates approved by the Ministry by order dated 24.4.2000. But, department took the stand that since Indira Gandhi Hospital did not reply to the letters, for Indira Gandhi Hospital alone rates fixed in 1989 are applicable, but, in all other hospitals in Cochin, the rates fixed in 2000 is applicable.

3. The tribunal went through the facts of the case in detail. It is settled law that in the absence of the rule, Government shall not be compelled to pay the full reimbursement, but, here, on the plain terms of the Rules as well as the rates approved by the Government for other hospitals, the Tribunal came to the conclusion that the entire bills submitted by the respondents should have been reimbursed. Indira Gandhi Hospital was given due recognition and it is still a recognised hospital for the purpose of CCS (MA) Rules and considering the bill amount, rates and finding of the tribunal, we are of the opinion that no interference is required in a petition under article 227 of the Constitution of India. The amount involved is also negligible and respondent Nos.2

and 3 may not be able to contest the case by engaging an advocate in the High Court for such a small amount. In any event, there is no merit in the case and on the facts of the case no interference is required. The writ petition is dismissed. We make it clear that this writ petition is dismissed on the facts of this case and on going through the bills, rates applicable for other hospitals and also findings of facts entered into by the tribunal.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

vaa

J.B. KOSHY AND
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) No.10694/2007 S

Judgment

Dated:2nd April, 2007